

Palmetto City Commission
November 5, 2007 7:00 p.m.

Elected Officials Present:

Larry Bustle, Mayor
Eric Ball, Vice Mayor
Tamara Cornwell, Commissioner
Tambra Varnadore, Commissioner
Brian Williams, Commissioner

Elected Officials Absent

Mary Lancaster, Commissioner

Staff and Others Present:

James R. Freeman, City Clerk
Chris Lukowiak, Public Works Director
Tanya Lukowiak, CRA Executive Director
Chief Garry Lowe
Bob Schmitt, Planning Supervisor/Zoning Administrator
Frank Woodard, Deputy Director of Engineering & Special Projects
Michele Hall, City Attorney
Karen Simpson, Deputy Clerk-Finance
Diane Ponder, Deputy Clerk-Administration

Mayor Bustle called the meeting to order at 7:02 pm. A moment of silence was observed for our military men and women serving all over the world, followed by the Pledge of Allegiance.

Mayor Bustle read a proclamation declaring November 8 – 17, 2007 as Farm City Week. Accepting the proclamation were Farm City Committee members Shirley Bryant and Ann Marshall. Ms. Bryant reviewed the itinerary for the week's events.

Chief Garry Lowe presented the certificate acknowledging the Police Department's reaccreditation. He acknowledged Lt. Rex Hannaford and Accreditation Manager Vicki Lashbrook, who explained the importance and accomplishment of receiving the reaccreditation. Chief Lowe informed Commission and the public that the department is one of 133, out of 500 police departments statewide, that has achieved this distinction.

Persons planning to address Commission were sworn in.

Public Comment

Virginia Rapone read a statement concerning the event held at Skyway Memorial Gardens that was billed as being held in cooperation with the city. Mayor Bustle stated it was not his intent for the City to endorse the event that was phrased to him as a wholesome event planned for children, which was to be held outside the grounds of the cemetery. He apologized for the discomfort the event had caused, stating, "I have respect for you and your concerns."

Shirley Bryant opined it could be construed from the ad in the newspaper that the City co-sponsored what was an inappropriate event for the location. Ms. Bryant also updated the Commission on the dates of the fair, whose theme this year is "What's Cooking at the Manatee County Fair". She encouraged Commissioners to help identify worthy individuals as nominees for the annual Distinguished Citizen award.

1. AGENDA APPROVAL

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 4-0 to approve the November 5, 2007 7:00 PM agenda.

2. CONSENT AGENDA

- A) Minutes: October 15, 2007
- B) October Check Register
- C) Special Function Permit: Celebration of Lights
Christmas on Old Main Street
MLK Parade
- D) Dye, Deitrich, Petruff & St. Paul billings for August 30 and September 30, 2007

The Special Function Permit for the Celebration of Lights and Christmas on Old Main Street were withdrawn for discussion. Ms. Varnadore corrected the October 15, 2007 7:00 pm minutes to correctly reflect Ms. Cornwell's reading of the proclamation.

MOTION: Ms. Varnadore moved, Ms. Cornwell seconded and motion carried 4-0 to approve the November 5, 2007 Consent Agenda as amended.

Special Function Permit: Celebration of Lights
Carol Hunt, Resource for Kids, confirmed this is the second year for the parade which, this year, will be the same route as the DeSoto Children's Parade.

Special Function Permit: Christmas on Old Main Street
Mr. Williams informed Commission the owner of the business located at the corner of 4th St. and 10th Ave. has requested his driveway not be blocked during the event. Mrs. Lukowiak informed Commission the issue with the driveway has been addressed by the event coordinator. Ms. Cornwell instructed the Merchant's Association representative, Shaun Long, to obtain agreement to the event from each business owner. Ms. Long stated she has personally spoken with each business owner and also assured Commission each vendor participating in the event would have proof of the required insurance.

MOTION: Ms. Cornwell moved and Mr. Williams seconded to approve the Celebration of Lights and Christmas on Old Main Street Special Function Permits and the correction to the minutes.

Discussion: Ms. Hunt confirmed the Public Library is aware of and in agreement with the street closure.

Motion on the floor carried 4-0.

3. PUBLIC HEARING: PALMETTO HIGH SCHOOL CONDITIONAL USE PERMIT (CU0702)

Palmetto High School has applied for a conditional use permit for the installation of an electronic message sign, to be located in front of the administration building.

Mayor Bustle opened the public hearing.

Jack May, Magee Sign Company, discussed the size, lighting and site orientation of the sign. Dustin Dahlquist, Palmetto High School Assistant Principal addressed Commission and requested permission to allow the sign to be lit continuously, rather than having to turn it off at 6:00 pm. City Planner Bob Schmitt informed Commission P&Z had recommended the sign be off from 11:00 pm to 6:00 am, but the board did not receive the presentation regarding the schematics of the sign. He stated staff has no objection with the ambient lighting of the sign, and suggested a 90-day trial basis. Mr. Dahlquist confirmed the school is willing to allow the City to

utilize the sign for emergency noticing. Commission requested that, as a courtesy, the topic be taken back to the P&Z Board for information regarding the ambient lighting and inform the Board the Commission has approved the 90 day trial. Staff is to furnish the P&Z Board's comments to the Commission.

Mayor Bustle closed the public hearing.

MOTION: Ms. Cornwell moved, Mr. Williams seconded and motion carried 4-0 to approve Conditional Use Permit #0702, the Palmetto High School sign, with the 90-day temporary lighting to be on 24 hours pending going to P&Z and any complaints from the community and City access for emergency use.

During the motion process, Commission confirmed the permit approval is not conditional upon the return to the P&Z Board. The only issue is the continuance of the 24-hour lighting, pending complaints from the public.

4. PUBLIC HEARING: NATIONAL GUARD ARMORY EXPANSION

Approval of the site plan for the renovation and expansion of the existing National Guard Armory facility.

Mayor Bustle opened the public hearing. After no public comment, Mayor Bustle closed the public hearing.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 4-0 to approve the National Guard Armory renovation and expansion site plan.

Terry Miller, engineer for the project informed Commission the project is a 3,000 square foot modernization, which is happening statewide. Mayor Bustle asked that Mr. Miller convey to the Commander of the Guard Unit appreciation for their service to our country and city.

5. PUBLIC HEARINGS: DEVELOPMENT AGREEMENTS

Mr. Lukowiak explained the Development Agreements are part of the Capital Improvement Canal Road Phase II project. The estimated cost of the project is \$690,000, of which the developers will contribute, up front, \$217,000 for the installation of utility improvements.

Mr. Lukowiak stated that throughout the development agreements there is reference to the installation of reuse lines, which staff is proposing not being installed at this time.

Public hearings for the Brett C. and Brenda J. Johnson Development Agreement., the Memphis Road Industrial Park, LLC Development Agreement and the 21st Street Business Park, LLC Development Agreement were held.

MOTION: Mr. Ball moved and Ms. Cornwell seconded to approve the Brett C. and Brenda J. Johnson Development Agreement.

Discussion: Mr. Lukowiak confirmed the construction costs have increased since the initial estimate given during the budget process, and the funds have been moved from the telemetry meter project. Attorney Hall confirmed the agreements will be amended regarding reuse. An additional amendment will also set forth the developers' responsibility for the full amount of the general government and law enforcement impact fees, for which they will not receive credit. Mr. Lukowiak confirmed the developers will receive credit for only road, water and sewer.

Discussion ensued on Mr. Lukowiak's operational decision to delete the installation of reuse at this time, what it could cost the City to proceed with the installation if a route is determined to be

feasible and how the installation at this time can assist the application for the ASR, the current customers that will be serviced and the fact future users' impact fees can lawfully pay debt service on the City's portion of the project. Commission instructed Mr. Lukowiak to accompany Jerry Hester, Westra Construction, to the site to determine a possible route so the City may proceed with the installation of a dry reuse line at this time.

Mr. Lukowiak requested Commission move forward with the development agreements and the Westra Construction contract later on the agenda, and if a route is determined to be feasible at this time, he will bring an amendment to the contract and development agreements at the next meeting.

Motion on the floor carried 3-1. Ms. Varnadore voted no.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 4-0 to approve the Memphis Road Industrial Park, LLC Development Agreement

MOTION: Mr. Ball moved and Ms. Cornwell seconded to approve the 21st Street Business Park, LLC Development Agreement.

Discussion: Ms. Varnadore stated she is voting against the agreements because she receives numerous complaints from citizens about the reuse project not being completed in the entire City. She acknowledged the agreements are not about reuse, but the City is spending funds to expand the City limits and extend the reuse lines, while still having issues within the City.

Motion on the floor carried 3-1. Ms. Varnadore voted no.

6. CONTRACT APPROVAL: WESTRA CONSTRUCTION CORPORATION

Contract with Westra Construction Corporation for the Canal Road Phase II project.

MOTION: Mr. Ball moved and Ms. Cornwell seconded to approve and authorize the Mayor to execute the Agreement for General Construction Services for Canal Road Phase II Utilities project, #06-534, based on the unit prices competitively bid and awarded to Sarasota County Bahia Vista, Pinellas County, City of Clearwater Beachwalk, SR 25 (US 27) and Sarasota County Area C contracts, in an amount not to exceed \$690,972.50.

Discussion: Mr. Ball questioned if it is time to begin putting projects out to bid rather than piggy-backing on existing contracts. Mr. Lukowiak stated he is confident the numbers still come in the same or better.

Motion on the floor carried 3-1. Ms. Varnadore voted no.

7. RESOLUTION NO. 07-44

Parks & Rec recommends amendment of the rental fee for the Chapel from a minimum \$150 to an hourly \$50 rate.

A RESOLUTION OF THE CITY OF PALMETTO AMENDING FEES ESTABLISHED FOR THE USE OF CITY PROPERTY AND FACILITIES AS AUTHORIZED IN SECTION 19-177 OF THE CODE OF ORDINANCES; AND ESTABLISHING AN EFFECTIVE DATE.

MOTION: Mr. Ball moved, Ms. Varnadore seconded and motion carried 4-0 to adopt Resolution No. 07-44.

8. RESOLUTION NO. 07-45

Approval of carry over purchase orders from fiscal year 2007.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AMENDING RESOLUTION NO. 07-39, WHICH RESOLUTION ADOPTED THE BUDGET FOR FISCAL YEAR 2007-2008, AND PROVIDING FOR AN EFFECTIVE DATE.

MOTION: Mr. Ball moved and Ms. Cornwell seconded to adopt Resolution No. 07-45.

Discussion: Mrs. Simpson confirmed the item is standard procedure that is done every year.

Motion on the floor carried 4-0.

9. RESOLUTION NO. 07-46

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA AUTHORIZING THE ISSUANCE OF A PROMISSORY NOTE OF THE CITY IN THE PRINCIPAL AMOUNT OF \$5,337,000.00 TO PROVIDE FUNDS TO FINANCE IMPROVEMENTS DESCRIBED IN THE CITY'S CAPITAL IMPROVEMENT PLAN; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A PROMISSORY NOTE, AN ISDA MASTER AGREEMENT AND SCHEDULE AND A LOAN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

Mr. Freeman confirmed this item is to fund the approved CIP and the debt services has been approved in the FY 2007-2008 budget. A component of the loan is a variable rate loan, which the City will "fix" and turn into a separate Swap Agreement. The end result is a fixed rate over the term of the 20 years, which as of today is 4.225, slightly lower than the prior two Bank of America loans executed in 2004 and 2005.

MOTION: Mr. Ball moved to adopt Resolution No. 07-46. Motion died for lack of a second.

Mayor Bustle stated his confusion because Commission has approved the CIP and is not approving the funding. He announced the CIP is null and void and any pending projects cannot proceed, including items #10, 11 and 13.

10. JACKSON PARK DRAINAGE PROJECT

Approval of Change Order No. 1 to authorize JEA to design the relocation of an additional county sewer line. He informed Commission a Notice to Proceed has been issued.

MOTION: Mr. Ball moved and Mr. Williams seconded to approve Jackson Park Drainage Park, #03-369, Change Order No. 1 in an amount not to exceed \$6,695.

Discussion: Ms. Varnadore inquired if Manatee County is reimbursing the city for 100% for the design and relocation. Mr. Wood confirmed Manatee County has agreed to reimburse the City 100% of the cost of this particular component of the project. In response to the inquiry concerning the status of the Interlocal Agreement, Mayor Bustle reminded Commission they have reviewed and approved this project, knowing the City may ultimately have to bear the entire expense.

Mr. Lukowiak inquired the legal ramifications of the project having been approved, the Notice to Proceed being issued and now the financing is not approved by Commission. Attorney Hall advised that Commission can not authorize the Mayor to enter into a contract if they know funding

available. She further stated that respective to contracts already authorized, each contract has built into it an implied covenant to fund by budget. She stated she has to research the status of the already entered into but unexecuted contracts. She stated that going forward, she is of the opinion Commission cannot approve contracts unless Commission can identify budgeted funds to accompany the contract.

Motion on the floor carried 3-1. Ms. Varnadore voted no.

Commission began a discussion about the CIP and its funding component. Mayor Bustle suggested that if Commission did not wish to do the CIP, a motion should be made to retract it. Mr. Williams inquired if any Commissioner wished to discuss their reasons for not seconding the motion for item #9.

Ms. Cornwell commented on the MSA commitment discussed at the 4:00 meeting and the City's ability to borrow the \$5.337 million. Mr. Freeman confirmed that for this calendar year the City has borrowed \$700,000 through the Master Lease Program plus the loan. The difference, \$3.8 million, may be committed to MSA this calendar year.

Mr. Lukowiak reviewed the CIP contracts that have been approved, totaling, in his estimation, approximately \$3 million. Attorney Hall stated that if Commission feels certain the funds will be borrowed in the future, they may move forward with the contracts and execute the loan at a later date. Mr. Lukowiak informed Commission that when the 301 project was approved work began; invoices from the vendors are waiting to be paid.

Mr. Ball moved and Ms. Cornwell seconded to adopt Resolution No. 07-46. (Item #9)

Discussion: Attorney Hall confirmed she has reviewed the bank loan for legal formality, she did not offer an opinion letter on the swap documents, nor did she negotiate the loan. Mr. Freeman stated the loan was not negotiated by an attorney, he explained the purpose of drawing the full amount of the loan vs. a line of credit, and the advantage of placing the funds in an interest bearing account. Sherry Byrd, Bank of America, informed Commission the bank had offered a line of credit for one year; then will amortize the balance over a 19-year period. She stated she felt staff had made a wise choice in structuring the loan as presented, given the rising interest rate environment. Mrs. Simpson also stated the interest accrued on the 2005 loan was the primary funding for Jackson Park during the last year. Ms. Byrd also confirmed the interest rate at closing will be locked in for the 20-year period. Ms. Varnadore stated she would not have had concerns with the loan documents if they had been included in the agenda, or a workshop had been held on the loan documents. Mayor Bustle responded this loan approval is the same process that was used for the last two loans; the documents were on file in the Clerk's office should anyone wish to review them prior to the meeting. Mr. Freeman also confirmed the loan was not bid, based on the relationship with Bank of America, and the loan being bank qualified.

Motion on the floor carried 4-0.

11. TELEMETRY METER IMPROVEMENTS

Mr. Lukowiak reviewed the CIP telemetry program, as approved on the CIP. He requested approval of a sole source contract in a total amount of \$100,000 with Sunstate Meter and Supply, Inc. At the City's request, Manatee County provided water to a subdivision the City could not serve, via the telemetry meters. The contract is sole source because the meters have been installed in a subdivision that originally was serviced by Manatee County. The initial work assignment of \$17,950 is for the initial phase of upgrading the meter reading system, which includes the software, wands and training. Mr. Lukowiak estimated that during the pilot program, in the existing subdivision, the City will save what equates to six days in manpower. He also confirmed he has been assured the program will integrate with other programs and the existing

meters can be converted if necessary. Mr. Freeman also assured Commission ADG can integrate the billing system with the Neptune meters.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 3-1 to approve and authorize the Mayor to execute a sole source contract with Sunstate Meter and Supply, Inc., in an amount not to exceed \$100,000, authorize payment for Work Assignment #1 in the amount of \$17,950 to install the Neptune R900 system, with all future work assignments to be approved by Commission. Ms. Varnadore voted no.

12. CONVERSION OF 7TH AVENUE WEST

Approval of the conversion of 7th Ave. between 11th St. Dr. W. and 10th St. W. back to a two-way street. Mr. Williams requested staff look at embedding reflectors in the curbing.

MOTION: Mr. Ball moved, Ms. Cornwell seconded and motion carried 4-0 to approve the conversion of 7th Avenue West from a one-way street back to a two-way street.

13. APPROVAL: ONECO CONCRETE & ASPHALT CONTRACT

Approval of Oneco Concrete & Asphalt master contract for sidewalk repair and replacement as budgeted and approved in the 2008 CIP.

MOTION: Mr. Ball moved, Mr. Williams seconded and motion carried 4-0 to approve and authorize the Mayor to execute the Agreement for General Construction Services for Sidewalk Improvements with Oneco Concrete & Asphalt, Inc., project #07-573, based on the unit prices competitively bid and awarded to Manatee County, in an amount not to exceed \$100,000, authorize payment for Work Assignments #1 and #2 in an amount not to exceed \$7,550, with all future work assignments to be approved by Commission.

Mr. Williams commented on the amount of the work assignment for the curb repair at 4th St. Mr. Lukowiak stated he will look at the area and pass along Mr. Williams' comments.

14. DEPARTMENT HEADS' COMMENTS

Mr. Lukowiak

The Riverside Plaza sign is operational.

He informed Commission the planner representing McDonald's is requesting that Commission be approached about the possibility of approving a conditional use permit for the continuation of the 80' tall sign currently on the site. When the sign was permitted there was a seven year amortization clause which has expired, but the City has never addressed the issue. He stated staff is not recommending approval. Mr. Lukowiak was instructed to advise McDonalds they need to follow the established process for seeking conditional use permits.

Reported Fawley Bryant has indicated the Goldome Building may not meet the City's needs. He is preparing a presentation that is looking in a different, more efficient direction. The topic will be placed on a workshop in the near future.

Mr. Freeman

Reported he is receiving complaints about musty odors, which have resulted from leaks in the air handler in the kitchen and the Mayor's office. He will be bringing an unbudgeted \$3,000 request for JEA to study the building. The study will be timed to coincide with a trip to the Police Department so additional travel expense will not be incurred.

Chief Lowe

There were no incidents reported on Halloween night.

The department has arrested a felon reported on the weekly fugitive list printed by the Herald.

Attorney Hall

Reported she can find no evidence that affords a legal non-conforming use status to property once involuntarily annexed into the City.

She will attend a conference for attorneys representing police departments. There is an increase in forfeitures and seizures, which will be covered at the conference.

15. MAYOR'S REPORT

Reported he will be attending the FLOC Legislative Conference Thursday and Friday.

16. COMMISSIONERS' COMMENTS

Ms. Varnadore

Explained the note passed to Mr. Williams questioned if he had read an article in the paper. Mayor Bustle stated passing notes is confusing to the audience; it is inappropriate to pass notes and whisper among the individuals seated on the dais.

Mr. Williams

Commented on the variations in the rules, where some topics are fully discussed before a motion. He suggested that before moving on to the next item when a second is not made, an attempt to have a discussion on why the second is lacking should be made. Stated he did not want staff passing notes to Commissioners during a meeting; they should approach the dais with a comment or question.

Suggested that to avoid circumstances like the ones surrounding the event held at Skyway Memorial, only Commissioners should approve co-sponsored events or, at the very least, they should be made aware of the event.

Alan Hollar, engineer at 1490 Radio, is looking for a piece of property in the City for relocation of the station. He has requested Mrs. Lukowiak to make contact with Mr. Hollar.

Mr. Lukowiak updated Commission on the status of the 7th Street signalization issue. An agreement for the 7th Street extension will be drafted and forwarded to the involved parties.

Commented on Mr. Freeman's Roberts' Rules of Order book. Attorney Hall informed Commission a lot of municipalities are moving away from Roberts' using other Orders of Rules.

Commented on the Manatee County Legislation Delegation. Commission has not had a chance to review the material, but Mr. Williams suggested Jackson Park should be submitted for consideration.

Mr. Ball

Reported on the MPO meeting he attended, as well as the Florida Redevelopment Conference held in Daytona.

Ms. Cornwell

Inquired to see the City light the Christmas decorations on the bridge at the same time as Bradenton. The City's street lighting will be turned on at the Celebration of Lights ceremony.

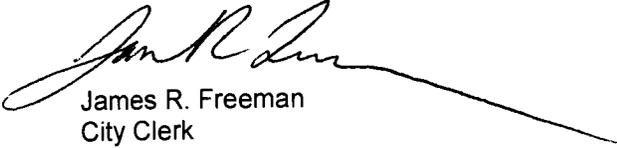
Referring to Palmetto High School's new sign and the lack of signage requirements, inquired why the school was made to remove signs on the fence. Attorney Hall explained how the Code addresses signs on fences and walls, but does not address signage dimensions in the public zoning category. Mr. Lukowiak stated the new sign ordinance and the Land Development Code will address the topic.

Ms. Cornwell agreed with Mr. Lukowiak about the McDonald's sign and inquired why they should have to come to Commission if it is known the height will not be supported. Mr. Lukowiak stated he will have a conversation with the representative and report back at the next meeting, but if they want the existing height to continue, they must go through the approval process, including a presentation to Commission.

Mayor Bustle commented on the number of businesses that have closed in the City. He stated he would like to be very proactive in encouraging business, as some believe the solution to the property tax issue is to grow business and shift the tax burden to commercial vs. residential. He commented on ordinances that are not business friendly, the sign ordinance being one. He suggested property not located on 8th Avenue would fare better with signage located on the thoroughfare advertising their location, such as a kiosk or signpost. Mrs. Lukowiak stated CRA has previously looked at the issue and could not find a place on 8th Avenue where the size of the signage allowable is legible by the passing motorist. He stated if Commission does not oppose the proposal he will bring the topic back.

Meeting adjourned at 10:25 pm.

Minutes approved: November 19, 2007


James R. Freeman
City Clerk